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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,274	10/29/2003	Mitsuo Watanabe	1341.1163	2798
21171	7590	10/04/2004	EXAMINER	
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			CAPUTO, LISA M	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/694,274

Applicant(s)

WATANABE ET AL.

Examiner

Lisa M Caputo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 92904.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Amendment

1. Receipt is acknowledged of the amendment and drawing correction filed 8 July 2004.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
3. Claims 1, 3, 5, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogasawara (U.S. Patent No. 6,327,576) in view of Button et al. (U.S. Patent No. 5,786,584, from hereinafter "Button").

Ogasawara teaches a system and method for managing expiration-dated products utilizing an electronic receipt. Regarding claims 1 and 5, Ogasawara teaches

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a bar code reader and method having an arrangement to communicate with a host apparatus in a POS system (POS terminal 10) that comprises a read unit (bar code scanner 12) that reads a bar code attached to an article, and outputs bar code information corresponding to the read bar code, a term information acquisition unit (store server 14, database 16) that acquires term information included in the bar code information, a term expiration check unit (PLU table fields of database 16 include both expiration date information and freshness period information; in addition, in the home environment, the electronic receipt retrieval and processing for expiration date management is preferably performed by a home terminal unit 24) that checks whether the term of the article has expired based on the term information, and a notification unit (electronic receipt 18 employed as a conventional paper receipt or IC card, and display screen 60) that notifies that the term of the article has expired upon determination by the term expiration check unit that the term of the article has expired (see Figure 1, col 3 line 22 to col 7 line 46). In addition, Ogasawara teaches that an item information database need not be hosted on a platform server but might be stored locally at each checkout station or POS terminal (see col 8, lines 5-20). It is well known that a barcode reader is a main component of a checkout station or POS terminal.

Regarding claims 1 and 5, Ogasawara fails to teach that the barcode reader itself contains the equipment to be able to utilize the term information acquisition unit, term expiration check unit, and notification unit in addition to a read unit that reads the barcode.

Button teaches a vial and cartridge reading device. Button teaches that a scanner 66 reads a bar code 53 on a medicine vial. The signal 80 outputted from the scanner 66 is transmitted to the microcomputer 59 which compares the signal to stored patterns and the microcomputer outputs a speech output signal 82 to the speaker 72 to broadcast an audio message of what is in the medicine vial (see Figure 6, col 7 line 60 to col 8 line 20). Hence, Button teaches that a barcode is scanned locally and is able to discern information about a certain product to display, which is applicable to being able to read term expiration data.

In view of the teaching of Button, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a database in the memory of a barcode scanner so that all of the information is conveniently located and does not have to be obtained by accessing a host terminal, which may not be feasible if the transmission units are down. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ogasawara because Ogasawara already teaches a barcode reader that is able to read information from a barcode that contains the expiration and freshness information without having to access a remote system and by using the teaching of Button, it is shown that one can indeed have a self-standing barcode reading system with all information received at the local apparatus.

Regarding claims 3 and 7, Ogasawara teaches the use of a transmission unit that transmits the bar code information to the host apparatus upon determination that the term of the article has expired (the bar code information scanned from each particular item is transmitted to a store platform computer 14) (see Figure 1, col 3).

4. Claims 2, 4, 6, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogasawara as modified by Button and further in view of Waxelbaum et al. (U.S. Patent No. 6,308,893, from hereinafter "Waxelbaum"). The teachings of Ogasawara as modified by Button have been discussed above.

Regarding claims 2 and 6, although Ogasawara/Button does indeed teach that expiration dates are calculated based on the current date settings and that the term expiration check unit checks whether the term of the article has expired based on a comparison of the present date with the term information, Ogasawara/Button fails to specifically teach that the bar code reader has a timer unit that keeps record of the present date.

Waxelbaum teaches methods for using a barcode reader in transactions. Waxelbaum discloses that a clock 240 may be included in the circuitry of the code reader. The clock may be employed, for example, to periodically awaken the code reader at scheduled times or intervals for data downloading. The clock may also be connected to a display (not shown) so that the code reader can be used as a time piece (see Figure 10, col 9, lines 5-10).

In view of the teaching of Waxelbaum, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ogasawara/Button to have an additional unit that keeps the record of the present date, since this piece of information is a necessary component to figuring out if a product is expired. It is appropriate to combine Waxelbaum with Ogasawara/Button because both systems

teach the use of bar code apparatus and method to obtain expiration information for products.

Regarding claim 4, Ogasawara/Button teaches that as an alternative to database or PLU table entry, an item's expiration date and/or freshness period information may be embedded or appended to machine readable item identification means (bar code or RFID tag) affixed to an item's packaging. Expiration date information and/or freshness period information might be provided as part of an extended bar code or as a second bar code printed on the product packaging as the item is ready to ship. Likewise, expiration date information and freshness period information might be appended to the conventional information provided in an RFID tag. Thus, rather than defining a link to the expiration date and freshness period information contained in the database, an item's bar code and/or RFID tag contains all of the requisite information associated to that item (see Ogasawara col 7, lines 54-67). Hence, Ogasawara/Button teaches that a date setting bar code is employed for the expiration date and/or freshness period.

Regarding claim 8, Ogasawara/Button fails to teach that the present date data is set in the timer unit.

Waxelbaum teaches methods for using a barcode reader in transactions. Waxelbaum discloses that a clock 240 may be included in the circuitry of the code reader. The clock may be employed, for example, to periodically awaken the code reader at scheduled times or intervals for data downloading. The clock may also be connected to a display (not shown) so that the code reader can be used as a time piece (i.e. using the current date) (see Figure 10, col 9, lines 5-10).

In view of the teaching of Waxelbaum, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a date setting unit that also records the current date, in addition to the expiration date/freshness period dates so that all of the information is comprehensive and able to be accessed quickly for a determination of a product validity (i.e. expired or not).

Response to Arguments

5. Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground(s) of rejection.

6. Examiner appreciates applicant's arguments that the Ogasawara patent does not teach the newly amended limitation that the barcode reader itself has the capability of checking the expiration date of the barcode that is read, and that a separate, remote transaction system is not utilized and has provided new prior art in the form of Button. In response to applicant's argument that DiMaria does not teach that a barcode reader has a timer unit, examiner has provided new prior art in the form of Waxelbaum in order to overcome this limitation. See 35 U.S.C. 103 rejections above.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Lisa M. Caputo** whose telephone number is **(571) 272-2388**. The examiner can normally be reached between the hours of 8:30AM to 5:00PM Monday through Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached at **(571) 272-2398**. The fax phone number for this Group is (703) 872-9306.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [**lisa.caputo@uspto.gov**].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


LMC

September 29, 2004


MARK TREMBLAY
PRIMARY EXAMINER